

II. Remarks.

The Official Action has been carefully considered. This Response is believed sufficient to place the present application in condition for allowance. Reconsideration is therefore respectfully requested.

Claims 1-5, 8-12, 14, 16, 17, 26, 27, 29, 31 and 33 remain pending in the application, claims 1-5, 8-10, 26, 27, 29, 31 and 33 are hereby amended.

The claims are generally objected to or rejected under 35 U.S.C. § 112 for use of the term “signals” and “intended use” language, and other grammatical errors. The amendments herein reflect applicant’s correction of these terms, concepts and errors, and reconsideration is respectfully requested. To the extent that other guidance was provided in a USPTO memo of August 5, 2010, the applicant was unable to find such memo (noting that the year should have been 2009, rather than 2010); if the examiner would provide more specific detail as regards where such memo is on the USPTO website, applicant will further address other issues in the claims.

35 U.S.C. §101

Claims 1, 10, 17, 26 and 31, and the claims dependent thereon are rejected under 35 U.S.C. §101, under the “machine or transformation test.” Since the action, the Supreme Court of the United States has determined that the “machine or transformation test” is not the sole factor in determining patentable subject matter. *Bilski v. Kappos*, No. 08-964 (June 28, 2010). Since this decision, the Patent Office has issued Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of *Bilski v. Kappos*. It is anticipated that the broader interpretation presented in the Court’s decision in *Bilski*, and as summarized in the Patent Office’s Interim Guidance, should cause reconsideration of the claims rejected by the Examiner under 35 U.S.C. § 101. Specifically, it is believed that any abstract idea that can be found in the claims have been practically applied, and are therefore patentable; reconsideration is respectfully requested.

35 U.S.C. §102

Claims 1-5, 8-12, 14, 16, 17, 26, 27, 29, 31 and 33 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication 2003/0200118 A1 to Lee et al. (hereinafter *Lee*).

As per claims 1 and 10 (and the currently pending claims dependent therefrom), the Examiner asserts that *Lee* discloses a healthcare claims management and payment transaction system comprising, among other elements, the claim element of “a claim processing mechanism that causes the processor ... to determine and append to the claim information rates corresponding to services, expenses or combinations thereof provided by the claim information ...” Specifically, the examiner states that the payment authorization is based in part on “the claim information as compared to one or more templates, rule sets, or combinations thereof.” The applicant disagrees in light of paragraph 5 of *Lee*, which states:

“... After service has been rendered, the provider submits a claim to a payer (for example, the patient’s health insurance company) for payment. After adjudication, the payer transmits a transaction set to the system. The transaction set indicates, among other things, the actual patient responsibility amount and a payer’s amount. ...”

Paragraph 30 of *Lee* also referenced by the Examiner as supporting his assertions similarly fails to contemplate any calculation or determination by a claim processing mechanism, reflecting only a reporting of claim amounts paid by the payer and the patient. The claim processing mechanism of the present invention requires a determination of the claim information rates corresponding to services, expenses or combinations thereof. These are not present or contemplated by the *Lee* system. As such, applicant respectfully requests that the Examiner reconsider his rejection of claim 1, and **claims 2-5, 8 and 9**, which are dependent thereon.

Similarly, **claim 17** concerns a memory for storing data for access by an application program, wherein the memory comprises in part “payment authorization information issued by the data processing system ... being based at least on ... one or more templates, rule sets, or combinations thereof.” As hereinabove asserted, no such templates, rule sets or combinations thereof are disclosed or contemplated in the *Lee* reference; therefore, applicant respectfully requests that the Examiner reconsider his rejection of claim 17.

Additionally, **claim 26** regards a program that includes the element of “generating a message ... specifying payment authorization for a certain sum based on determined rates for services, expenses or combinations thereof provided by the healthcare claim, wherein the payment authorization is based on the claim information as compared to one or more templates, rule sets, or combinations thereof.” Again, *Lee* does not contemplate any such template, rule set,

or combination thereof, and therefore applicant respectfully requests that the examiner reconsider his rejection of claim 26, and **claims 27 and 29** which are dependent thereon.

Finally, **claim 31** recites a process including the step of “creating a payment authorization message ... based in part on claim information corresponding to the claim as compared to one or more templates, rule sets, or combinations thereof.” Again, *Lee* fails to disclose or contemplate the use of any templates, rule sets, or combinations thereof, to determine the payment authorization message. As such, applicant respectfully requests that the examiner reconsider his rejection of claim 31, and **claim 33** which is dependent thereon.

Hence, the Applicant asserts that the rejections of claims 1-5, 8-12, 14, 16, 17, 26, 27, 29, 31 and 33 under 35 U.S.C. §102 as being anticipated by *Lee* are overcome. Reconsideration is respectfully requested.

Conclusion

The foregoing is believed to be a comprehensive and effective response to the rejections under 35 U.S.C. §§ 112, 101 and 102 set forth in the most recent Office Action. The application is therefore believed to be in condition for allowance and an early allowance is respectfully requested. However, Applicant invites the Examiner to contact their counsel at the number or e-mail listed below in the event there remains any unresolved issues which may be efficiently addressed.

Respectfully submitted,

By /Monika J. Hussell/
Monika J. Hussell
Registration No. 37,359
Attorney for Applicant

Dinsmore & Shohl LLP
900 Lee Street, Suite 600
Charleston, West Virginia 25301
Telephone: (304) 357-9924
Facsimile: (304) 357-0919
e-mail: monika.hussell@dinslaw.com